MC2004/0058

Date Received: 28th January 2004

Location: Cuxton Pit no. 3, Cuxton Road, Strood, Rochester, Kent

Proposal: Engineering works to form development platforms (associated with outline application for residential, Class B1 (Business) and associated development)

Applicant: Strand Harbour Developments Limited Heaton House Cams Estate Fareham Hants. PO16 8AA

Agent: Miss Anna Bloomfield Bloomfields Limited 66 College Road Maidstone Kent ME15 6SJ

Ward: Strood South

Reasons for Urgency

This report has been agreed by the Chairman as a late addition to the agenda for the meeting on 18 August for the following resaons:

The proposals the subject of this application and the related outline application MC2004/0063 for mixed development on the site, (which appears as item 2 on the published agenda for this meeting) will require the translocation of the great crested newt which is a protected species. Protected species can only be translocated under the terms of a licence issued by the Department for Environment, Food and Rural Affairs (DEFRA). When the translocation of a protected species is necessitated by a scheme of development DEFRA will only issue a licence when planning permission exists for the proposed development.

The translocation of newts is a seasonal activity and can only be undertaken when they hibernate which is usually between the months of October and March (although this can vary year on year depending upon weather conditions). The applicant is proposing to translocate the newts on this site in the coming translocation season to avoid a delay of a year occuring in this process and to this end will be submitting an application to DEFRA in the very near future. In order to allow the early submission of the licence application to DEFRA and the undertaking of the translocation activity in the coming season, application MC2004/0058 for enabling works needs to be determined at the earliest opportunity. In view of application MC2004/0058 relationship with the proposals contained within application MC2004/0063, it is considered that under the circumstances Members should consider both applications at the same time.

Recommendation - Approval subject to:

A) Referral to the First Secretary of State under the provisions of: Circular 07/99 Town and Country Planning (Development Plans and Consultation)

(Departures) Directions 1999 as a departure from the Development Plan and the Town and Country Planning (General Development Procedure) Order 1995 Article15(1)(b)(i), being development within 67 metres of the centre of a motorway.

B) The applicant entering into a Section 106 Agreement to secure the following:

i. A contribution of £100,000 towards the provision of a warden service at the proposed Ranscombe Farm nature reserve.

ii. A contribution of £30,000 towards research to promote greater biodiversity within the boundary of Medway Council.

iii. A contribution of £70,000 towards the creation/enhancement of a newt colony at Motney Fields, Gillingham or at another location to be mutually agreed between the applicant and the Local Planning Authority.

iv. A contribution of £100,000 towards the purchase of additional land within the Medway Valley area to facilitate wildlife habitat creation.

C) The following conditions:

1 The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

2 The engineering works hereby permitted shall not be commenced until the new ponds to be provided within the south-western corner of the quarry as a new habitat for the Great Crested Newt, permitted under the terms of planning permission MC2003/2616, have been constructed and are available for use, unless any variation in the timing of the provision of these ponds has otherwise first been approved in writing by the Local Planning Authority. The aforementioned ponds shall thereafter be retained for the duration of the development hereby permitted.

3 Prior to the commencement of the engineering works hereby permitted details of measures to protect the ponds, to be provided pursuant to the provisions of planning permission MC2003/2616 and the requirements of Condition 2 above, from unauthorised encroachment by construction plant or personnel shall be submitted to and approved in writing by the Local Planning Authority. The approved protection measures shall be installed prior to the commencement of the engineering works hereby permitted and shall thereafter be retained for the duration of the works.

4 The engineering works hereby permitted shall only be undertaken during the hours of 8.00 am to 6.00 pm Mondays to Fridays inclusive and 8.00 am to 1.00 pm on Saturdays and at no time on Sundays or national holidays and the works shall be undertaken at no other times unless any

variation is otherwise first approved in writing by the Local Planning Authority.

5 Except for the provision of security lighting the site shall only be illuminated during the approved hours of working referred to in Condition 4 above.

6 Prior to the commencement of the development hereby permitted details of any perimeter fencing, screening or bunding shall be submitted to and approved in writing by the Local Planning Authority. Any perimeter fencing, screening or bunding to be installed in association with the development hereby permitted shall be installed strictly in accordance with the approved development prior to the commencement of the permitted works and shall thereafter be retained for the duration of these works.

7 The engineering works hereby permitted shall not be commenced until a Code of Construction Practice has been submitted to and approved in writing by the Local Planning Authority. The Code shall include amongst other matters details of: measures for the supression of dust; measures for noise limitation and monitoring; wheel cleaning/chassis cleaning facilities; protection of surface and ground water resources; pollution incident control; and the location of any construction compound(s) and office(s). The engineering works hereby permitted shall be carried out at all times in accordance with the approved Code of Construction Practice.

8 No vegetation to be removed as part of the clearance works associated with the works hereby permitted shall be burnt on site.

9 During the course of the engineering works hereby permitted no fill material shall be imported onto the site and no excavated material shall be exported from the site, unless any variation has otherwise first been approved in writing by the Local Planning Authority.

10 Prior to the commencement of the development hereby permitted an investigation shall be undertaken to determine the nature and extent of any contamination. The results of the investigation together with a risk assessment by a competent person and details of a scheme to contain, treat or remove any contamination as appropriate, shall be submitted for the written approval of the Local Planning Authority. The approved scheme shall be fully implemented and a completion report issued by the competent person referred to above, stating how remediation has been completed and that the site is suitable for the permitted use, shall be provided to the Authority upon the completion of the permitted engineering works.

11 Prior to the commencement of the engineering works hereby approved full details of the vehicular site access, including its junction with the A228/Cuxton Road shall be submitted to and approved in writing by the Local Planning Authority. The site access shall be provided in accordance with the approved details prior to the commencement of the excavation

and filling works hereby permitted and shall thereafter be retained in a useable condition for the duration of the permitted engineering works. At no time during the course of the engineering works hereby permitted shall the site be accessed from any other vehicular access point.

12 For the duration of the engineering works hereby permitted any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The bund capacity shall give 110% of the total volume for single and hydraulically linked tanks. If there is multiple tankage, the bund capacity shall be 110% of the largest tank or 25% of the total capacity of all tanks, whichever is the greatest. All filling points, vents, gauges and sight glasses and overflow pipes shall be located within the bund. There shall be no outlet connecting the bund to any drain, sewer, or watercourse or discharging onto the ground. Associated pipework shall be located above ground where possible and protected from accidental damage.

Site Description

The application site comprises a former chalk quarry which has been disused for in excess of 10 years, together with associated open land to the north east and around its perimeter. The quarry occupies the majority of the site's area, which extends to 18.7 hectares. The depth of the quarry varies reaching a maximum of almost 50 metres and the site's existing levels range between 2 and 56 metres AOD (above ordnance datum). The site at its maximum is 750 metres wide and its horizontal depth ranges between 230 metres to the west, 350 metres in the middle of the site and then tapering to virtually nothing to the east.

Parts of the floor are water filled with shallow ponds and there are no deep lakes or lagoons. The quarry has vertical walls on all sides although there has been some terracing and re-levelling of the faces in some areas, particularly along the north eastern side.

Following extraction of minerals, the quarry floor has regenerated, primarily with young secondary woodland. The shallow ponds on the floor of the quarry support a great crested newt colony. Approximately 13 hectares of the site is designated as a Site of Nature Conservation Interest (SNCI). At the eastern end of the quarry there is an area of grazing land which has been subdivided into paddocks.

The site is bounded:

- To the south and south-east by the A228/Cuxton Road, between the new roundabout which serves Medway Valley Park and the adjoining industrial area and the over-bridge crossing of the M2,

- To the south-west by a wooded area separating the site from the extended M2/A228 Junction 2 works.

- To the north and north-west by wooded areas along the top of the quarry faces, that separate the site from houses on the southern side of Rushdean Road.

- To the east by a hedgeline, beyond which there is an area of open space accessed from Sycamore Road.

There is an existing access track into the site from the A228. This was formerly a "haul route" for taking vehicles, equipment etc, from road level to the quarry floor. The junction of this haul road with Cuxton Road is approximately halfway along the site's frontage to that road.

The site lies outside the present urban boundary and is therefore "in the countryside". It is however "previously developed" land in view of the nature of its previous use which pre-dated planning control and hence there are no planning conditions which could have secured the restoration and after-use of the site.

Proposal

The submitted application is for engineering works, principally cutting and filling operations to enable development platforms to be formed to facilitate the redevelopment of the site for mixed use purposes including residential and Class B1 (Business) uses. A related outline application (MC2004/0063) for the redevelopment of the site for mixed uses has been submitted and appears as item 2 on the main agenda for 18 August 2004.

A pre-requisite for any development proceeding on this site is for the quarry floor and sides to be re-profiled and re-graded. These engineering earthworks will involve cutting and filling of in-situ chalk and it is proposed that these works will result in the formation of a gently sloping development platform. The cut and fill works will affect an area of approximately 12.7 hectares. At the eastern end of the site the development platform's height will be approximately 19.5 metres AOD, while at the western end of the site its height will be in the region of 12 metres AOD. The gradient of the platform will be approximately 1:80 along the main north east/south west axis of the site. To facilitate the creation of this platform high level chalk at the eastern end of the site will be excavated and placed as fill at the low western end of the site. The works will involve the excavation of 812,700 cubic metres and the filling of 809,700 cubic metres. The excavation and filling activities will almost balance one another with the result that there will be no requirement to either export or import materials during the course of these works.

The ancillary works associated with the formation of the development will involve: the establishment of a site entrance leading from the Roman Way roundabout (ie the creation of a fourth arm); the installation of secure fencing around the perimeter of the site; the formation of a storm water attenuation pond; the formation of a new internal haul road; and site clearance including tree removal. The excavation and infilling operations, as a consequence of the relatively high moisture content of chalk, will largely be seasonal and will take place between the beginning of April and the

end of September in any one year and it is anticipated that the these works will therefore be spread over two calendar years.

The application site supports a newt colony and part of their existing habitat is within the site that is to be developed. The great crested newt is a protected species and it will therefore be necessary for the developer to establish a new habitat on the site, principally shallow ponds, and translocate the newts into the newly created habitat. Planning permission has already been granted under file reference MC2003/2616 for the formation of the new ponds and the developer will also have to obtain a licence from DEFRA for the relocation of the newts.

Relevant Planning History

MC/98/CTRL/0003 MC/98/CTRL/0004	Disposal of surplus inert spoil generated by the construction of the Channel Tunnel Rail Link Approved 19 October 1998
MC/2003/2616	Formation of new ponds at the south-western corner of the quarry floor as a habitat for the Great Crested Newts Approved 6 February 2004
MC2004/0063	Outline application for residential and use class B1 development with highways, drainage and other infrastructure including community facilities, open space and wildlife conservation areas For consideration on 18 August

The site was worked for Chalk for many years up to the 1970s. The material was extracted and conveyed by a tunnel under the A228 (still visible on the quarry floor today) to the cement works, which was located adjacent to the site of Cuxton No.1 and No.2 pits, on the opposite side of the A228. When chalk extraction ceased, the application site was the subject of an application for the disposal of household waste was refused planning permission in 1987 and the subsequent appeal was dismissed.

Subsequently the application site was reserved as a possible site for the disposal of operational spoil arising from the construction of Section 1 of the Channel Tunnel Rail Link (CTRL). Planning permission was granted in October 1998 for infilling of the quarry with CTRL spoil, however this permission was not implemented and lapsed in October 2003.

In view of the apparent commitment to use the site for CTRL associated purposes, no firm alternative proposals for development came forward during the preparation of the Medway Local Plan and the site has therefore been excluded from the settlement boundary for Strood.

Representations

This application has been advertised on site and in the local press as: an application accompanied by an Environmental Impact Assessment; Major Development; and a Departure from the Development Plan. Neighbour notification letters have been sent

to the owners of occupiers of: 1 to 199 (Consec) and 120 to128 (even) Sycamore Road; 1 to 49 (consec) and 51 Rushdean Road; 1 to 15 (Consec) Bootham Close; and various commercial premises in Ballard Business Park, Cuxton Road; Roman Way; Saxon Place; Norman Close; and Viking Close. Consultations have also been undertaken with English Nature, the Environment Agency, the Highways Agency, Cuxton Parish Council, the Kent Wildlife Trust, CTRL (UK) Ltd and the County Archaeological Officer (as Medway Council's archaeological advisor).

Four letters have been received objecting to the application for the following reasons:

- loss of areas of wildlife value, the proposals will not only affect newts but also bats and slow worms;

- the development will result in an unwelcome change in the open and undeveloped aspect of the site;

- the development has the potential to undermine the garden areas of neighbouring properties;

- the development will potentially result in the loss of trees;

- the construction works will result in further disruption, following on from CTRL and M2 widening works;

- adequate provision for new development in Thames Gateway is being made and there is therefore no need to develop this site; and

- the chalk faces to the quarry will be subject to instability.

The Environment Agency has written raising no objection to the application subject to appropriate conditions being imposed in respect of a range of matters. The Agency has made the following more detailed comments:

- In respect of site drainage, the Agency would wish to see calculations for the design capacity of attenuation ponds to be based on higher rainfall assumptions than the applicants have used.

- In respect of ground water protection, the site lies on a major aquifer and is within a source Protection Zone for the Strood public water supply. A number of conditions to ensure the safeguarding of the aquifer are proposed.

- In respect of the re-levelling works on site, it is noted that the proposed infilling/levelling of the quarry floor relies on material already on site, but if any material needs to be imported to the site if this is not the case, an appropriate licence will be required. The issue of contamination is also relevant as the site is within 100 metres of a former landfill site (on the opposite side of the A228 and care should be taken to ensure that any existing tunnels do not act as a conduit for the movement of gas or leachates.

- With respect of Biodiversity, the proposals to create compensatory habitat and the mitigation measures for protected and scarce species, are welcomed subject to a number of detailed comments.

English Nature has written raising no objection to the application, although it would be more desirable for the off-site compensation for lost habitat to be closer to the site.

CTRL (UK) Ltd has written raising no objection to the application.

Development Plan Policies

Kent Structure Plan 1996

Policy S1	(Sustainable Development)
Policy S2	(Conservation and Enhancement of the Environment)
Policy S5	(Thames Gateway)
Policy S6	(Housing Location)
Policy ENV1	(The Countryside)
Policy ENV2	(Retention of Natural Features)
Policy ENV14	(Land Reclamation)
Policy H1	(Provision of Housing)
Policy H3	(Housing in Urban Areas)
Policy NR3	(Groundwater Reserves)
Policy NR4	(Surface Water Quality)
Policy RS5	(Development within the Countryside)
Policy T18	(Transport Implications of New Development)
Policy T19	(Access to Primary Road Network)

Medway Local Plan 2003

Policy S1	(Development Strategy)
Policy S2	(Sustainable Development)
Policy BNE1	(General Principles)
Policy BNE3	(Noise Sensitive Development)
Policy BNE5	(External Lighting)
Policy BNE25	(Development in the Countryside)
Policy BNE36	(Sites of Nature Conservation Interest)
Policy BNE37	(Wildlife Habitats)
Policy BNE39	(Protected Species)
Policy H4	(Housing in Urban Areas)
Policy H6	(Windfall Housing)
Policy T1	(Highways Impact)
Policy T2	(Provision of Safe Access)

Kent and Medway Structure Plan (Deposit Version) 2003

Policy SS1	(Spatial Strategy)

Policy SS3	(Sequential Approach and Previously Used Land)
Policy E1	(The Countryside)
Policy E7	(Wildlife Conservation)
Policy E8	(Biodiversity)
Policy TP2	(Location of New Development)
Policy HP1	(Housing Provision to 2021)
Policy HP3	(Previously Developed Land)
Policy HP4	(Sequential Approach to Location)
Policy QL1	(Quality of Design)

National and Regional Planning policy and guidance

PPG1	(General Policy and Principles)
PPG3	(Housing)
PPG7	(The Countryside)
PPG9	(Nature Conservation)
PPG13	(Transport)
PPG14	(Development on Unstable Land)
RPG9A	(Thames Gateway Planning Framework)

Planning Appraisal

This application raises the following issues for consideration:

1. matters of planning policy and principle;

2. availability of land for housing purposes;

3. impact upon residential amenity, including construction activity;

4. nature conservation issues; and

5. highway implications.

Issues 1, 2 and 4 have been fully assessed in the Planning Appraisal section of the report concerning the related outline application MC2004/0063 (which appears as item 2 on the main agenda for 18 August 2004) for the proposed mixed use development on this site and it is considered that the conclusions drawn in that report are equally applicable to the proposals the subject of the current application. Accordingly with respect to issues 1, 2 and 4 Members are requested to refer the relevant sub-sections of the Planning Appraisal section for application MC2004/0063 for guidance on these matters.

It will be noted that with respect to the issue of nature conservation there are a number of on and off site mitigation measures that it is recommended should be made the subject of obligations attached to a Section 106 agreement accompanying any planning permission granted under file reference MC2004/0063. It is therefore considered that the following items should be made the subject of a Section 106 agreement to accompany any forthcoming planning permission for the proposed

engineering works, because it is the implementation of this permission that will result in the actual loss of habitat on the site:

1. A contribution of £100,000 towards the provision of a warden service at the proposed Ranscombe Farm nature reserve.

2. A contribution of £30,000 towards research to promote greater biodiversity within the boundary of Medway Council.

3. A contribution of £70,000 towards the creation/enhancement of a newt colony at Motney Fields, Gillingham or at another location to be mutually agreed between the applicant and the Local Planning Authority.

4. A contribution of £100,000 towards the purchase of additional land within the Medway Valley area to facilitate wildlife habitat creation.

The need and justification for these contributions is as set out in the report for application MC2004/0063.

Impact on residential amenity, including construction work implications

The site has only one common boundary with existing residential development, along the northern quarry rim, where it adjoins the houses on the southern side of Sycamore Road and Rushdean Road. For the most part the proposed development platform would be screened from the existing housing by the quarry walls. It is therefore considered that engineering works will not have an adverse affect upon the visual amenities of the occupiers of neighbouring properties. Accordingly in this respect the submitted proposals are viewed as being in accordance with the provisions of Policies ENV15 of the Structure Plan, Policy BNE1 of the adopted Local Plan and Policy QL1 of the emerging Structure Plan.

The large scale earth moving activities associated with the proposed engineering works have the potential to generate noise and dust that could cause disturbance to residents within the vicinity of the site. To reduce the potential for the generation of noise disturbance the applicant is proposing that the working hours should be limited to 7.00 am to 6.00 pm Mondays to Fridays inclusive and 7.00 am to 1.00 pm on Saturdays. In this respect it should be noted that the consent for spoil disposal arising from the Channel Tunnel Rail Link granted under file reference MC/98/CTRL/0004 limited the “normal” working hours to 8.00 am to 6.00 pm Mondays to Fridays inclusive and 8.00 am to 1.00 pm on Saturdays and it is considered that these slightly reduced hours should be applied in this instance having regard to the proximity of the neighbouring properties in Rushdean Road and Sycamore Road. With the imposition of the aforementioned working hours limitations and having regard to the relatively high background noise levels that occur within the vicinity of the site during these hours, it is considered that the proposed works will not give rise to levels of noise that would be likely to adversely affect the amenities of the occupiers residential properties in the area. It should also be noted that the excavation and infilling works are also likely to be the subject of noise and vibration controls applied under the provisions of either Sections 60 or 61 of the Control of

Pollution Act 1974 (legislation administered by the Council's Environmental Protection team).

With respect to dust generation the applicant is proposing to use temporary surfaced site roads and water bowsers as the principal mitigation measures. These measures are widely accepted as appropriate mitigation measures, however as no specific details have been submitted with the application it is considered that the submission of fuller details should be required through the imposition of a condition on any forthcoming planning permission.

The burning of cleared vegetation on construction sites also has the potential to cause a loss of amenity to the occupiers nearby properties and it is therefore considered that this activity should be prohibited by way of the imposition of a condition on any forthcoming planning permission.

With the imposition of the aforementioned conditions it is considered that the amenities of the occupiers of adjoining properties can be appropriately safeguarded and accordingly no objection is raised to the application in this respect under the provisions of Policies ENV15 of the Structure Plan, Policy BNE2 of the adopted Local Plan and Policy QL1 of the emerging Structure Plan.

Highway implications

The vast majority of the vehicular activity associated with proposed engineering works will be contained within the application site, with fill material being generated by on-site excavations. It is therefore considered that these proposals will have no adverse traffic generation implications.

Vehicular access to the works site will be derived via a new fourth arm leading from the existing roundabout at the junction between the A228/Cuxton Road and Roman Way. It should be noted that it is proposed that this arm will ultimately provide the permanent access to the development that will be facilitated by the formation of the proposed development platform. It is considered that the location of this access is acceptable and that subject to the submission of acceptable details prior to its first use, a matter that can be conditioned, that the proposed access arrangements are acceptable.

No highway objections are therefore raised to the application and it is therefore viewed as being in accordance with the provisions of Policy T18 of the Structure Plan, Policies T1 and T2, of the adopted Local Plan and TP2 of the emerging Structure Plan.

Conclusion

The submitted proposals are considered to be acceptable in all regards and the application is accordingly recommended for approval, subject to the application being referred to the Government Office as a departure from the Development Plan and the applicant entering into the recommended Section 106 agreement.